IN THE SUPREME COURT OF NOVA SCOTIA
Citation: Ormrod v. Goodall., 2002 NSSC 243

Date: 20021112
Docket: S.P. 06140
Registry: Pictou

Between:

April Ormrod by her Litigation Guardian Ralph Ormrod

Plaintiff

-and-

Russell Tyler Goodall and George Goodall

Defendants

Judge: The Honourable Justice David W. Gruchy

Heard: May 30, 2002, in Pictou, Nova Scotia

Counsel: Jamie MacGillivray, for the plaintiff

By the Court:

[1] This application for approval of infants' settlement came before me at Pictou, Nova Scotia on May 30, 2002. At the conclusion of hearing the application, I requested plaintiff's counsel to resubmit the application substantially complying with the precedents circulated by this Court to the Bar and to the Prothonotaries' offices in December, 1997, as amended.

[2] By letter dated August 27, 2002, counsel has resubmitted the application with the following supporting documents:

(a) solicitor's affidavit;
(b) a letter from a representative of an insurer for the defendants consenting to the settlement;
(c) a proposed trustee's affidavit from the litigation guardian;
(d) an affidavit of the infant plaintiff concerning her injuries.

[3] In addition, in correspondence counsel has questioned the Court's position with respect to contingency fee agreements.

[4] I will refer to each of these documents and make comments thereon, including some general comments with respect to the procedure required in infants' settlements.

[5] I will firstly address the matter of contingency fees. Counsel accepted the conduct of this action on the basis of a contingency fee agreement whereby the fees agreed upon by the litigation guardian were set forth in para. 3, which reads as follows:

> a) 25% Fee Settled
>
> Should the suit for damages arising out of the aforementioned claim be settled in a manner and amount satisfactory to the Client, prior to Discovery Hearings, a sum equivalent to Twenty-Five (25%) percent of the gross amount received by the Client from the opposing party.

The agreement also was clear that contingency fees are subject to taxation. That contingency fee agreement was filed at the Prothonotary's office in compliance with the applicable Civil Procedure rule.

[6] The circumstances of the accident giving rise to the claim are set forth in the statement of claim. It is alleged that the defendant driver of the motor vehicle in which the infant plaintiff was a passenger backed into a monument. As these circumstances appeared to raise little question about liability, I considered that I should inquire whether the twenty-five (25%) percent contingency fee claimed was justified and to relate that amount to fees which might have been chargeable if the case had been accepted on a non-contingency basis. Counsel informed me that there was a "possible causation problem". He also informed me that he charges, when fees are calculated on an hourly basis, at the rate of $250 per hour. Based on my general knowledge of fees currently charged by solicitors in the Province of

Nova Scotia, and knowing that present counsel is a relatively junior lawyer with limited experience, I questioned that rate. I also indicated that I wanted to know how much work had actually been done in achieving the settlement. As counsel appeared not to understand or appreciate the role of the Court in monitoring infants' settlements, particularly when a contingency fee is involved, I will take this opportunity to explore the subject briefly.

[7] Contingency fee agreements were permitted in Nova Scotia a number of years ago without much legal wrangling. In Ontario, however, such agreements have only recently been recognized and are now undergoing judicial consideration. That consideration affords a ready explanation of the origin of the Courts' concerns. In the recent case, *McIntyre Estate v. Ontario (Attorney General)* [2001], 53 O.R. (3d) 137, as mentioned by O'Connor, A.C.J.O. in the appeal decision ([2002] O.J. No. 3417), Justice Wilson considered an application as follows:

> a) A declaration that the proposed agreement between the applicant and her solicitors does not offend the Champerty Act.
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> b) In the alternative, a declaration that the Champerty Act is of no force and effect, and is contrary to the Canadian Charter of Rights and Freedoms, and the Constitution Act, 1867.
>
> c) In the further alternative, an order providing a constitutional exemption, allowing the respondent to retain counsel, notwithstanding the provisions of the Champerty Act.

[8] Justice Wilson wrote a lengthy and thorough decision which was appealed. The Ontario Court of Appeal stayed the effect of Justice Wilson's decision as it was premature. In its decision, the Court of Appeal traced the common law respecting maintenance and champerty in Ontario and related that history to the Ontario Statute of Champerty, 1897, which was still in effect. O'Connor, A.C.J.O. discerned four general principles of the common law of champerty and maintenance and remarked at paras. 34 and 35:

> In summary, I discern the following four principles from a review of the common law of champerty and maintenance:
>
> * Champerty is a subspecies of maintenance. Without maintenance, there can be no champerty.

* For there to be maintenance the person allegedly maintaining an action or proceeding must have an improper motive which motive may include, but is not limited to, officious intermeddling or stirring up strife. There can be no maintenance if the alleged maintainer has a justifying motive or excuse.

* The type of conduct that has been found to constitute champerty and maintenance has evolved over time so as to keep in step with the fundamental aim of protecting the administration of justice from abuse.

* When the courts have had regard to statutes such as the Champerty Act and the Statute Concerning Conspirators, they have not interpreted those statutes as cutting down or restricting the elements that were otherwise considered necessary to establish champerty and maintenance at common law.

The above constitute the general principles relating to champerty and maintenance found in the common law. Historically, the courts applied these principles very strictly to contingency fee agreements between lawyers and clients, holding that such agreements were per se champertous without the need to show a specific improper motive.

[9] O'Connor, A.C.J.O. related the offence of champerty to solicitors' contingency fee agreements and remarked upon the use and acceptance of such agreements in other jurisdictions in Canada and in the United States. He concluded that the acceptance of such agreements presented more potential advantages to society than disadvantages. It is unnecessary in this jurisdiction to re-examine that subject, but it is necessary, in my view, to consider the need for continued vigilance on the part of the court when the effect of an agreement is considered. As Justice O'Connor said at para. 47:

... The overriding purpose of the common law of champerty has always been to protect the administration of justice from abuse by those who wrongfully maintain litigation. Its origins are rooted in a policy directed to ensuring a fair resolution of disputes and protecting vulnerable litigants from abuse. The protection afforded by the common law is advanced by looking to the propriety of the motives of those who become involved in litigation. By examining motives, one can more readily separate abusive practices from those that are justified or even beneficial to the proper administration of justice.

[10] With respect particularly to lawyers' contingency fee agreements, Justice O'Connor outlined the concerns of the courts expressed in various cases in

different jurisdictions, but concluded that there was little evidence, if any, to show that the legal profession had abused contingency agreements. He did, however, caution that such evidence may have been difficult to discern as such agreements had been considered illegal.

[11] I am not aware of empirical evidence of abuse of contingency agreements in Nova Scotia, but that does not justify lack of vigilance on the part of the judiciary, nor should anecdotal indications be ignored. Justice O'Connor cautioned at paras. 75 to 77:

> To be clear, I am not suggesting that contingency fee agreements can never be champertous. Rather, I conclude only that contingency fee agreements should no longer be considered per se champertous. The issue of whether a particular agreement is champertous will depend on the application of the common law elements of champerty to the circumstances of each case. A court confronted with an issue of champerty must look at the conduct of the parties involved, together with the propriety of the motive of an alleged champertor in order to determine if the requirements for champerty are present.
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> When considering the propriety of the motive of a lawyer who enters into a contingency fee agreement, a court will be concerned with the nature and the amount of the fees to be paid to the lawyer in the event of success. One of the originating policies in forming the common law of champerty was the protection of vulnerable litigants. A fee agreement that so over-compensates a lawyer such that it is unreasonable or unfair to the client is an agreement with an improper purpose - i.e., taking advantage of the client. See Thai Trading, supra, at 788, 790. The applications judge in this case dealt with this concern as follows, at 157:
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> > The suggested compensation may or may not be fair and reasonable, depending upon the outcome of the litigation in light of the difficulty of the case, as well as the time and expenses incurred. Counsel should be well rewarded if the litigation is successful, for assuming the risk and costs of the litigation. The compensation however should not be a windfall resembling a lottery win.
> >
> > I agree with these comments.

[12] The Ontario Court of Appeal concluded that it was premature to address the issue of reasonableness and fairness in the circumstances of the case before them:

> There is no way of telling at this point whether the fees that would be paid to the lawyers under the proposed agreement would be reasonable and fair. When an agreement like this one is structured so that the fees are based on a percentage of the recovery, the determination of whether the fees are reasonable and fair will normally have to await the outcome of the litigation.

This position is virtually identical to the conclusion reached in *Peters v. Squamish Indian Band*, [1990] 43 B.C.L.R. (2d) 102. That is the point at which the case now before me has reached.

[13] At the risk of repetition, I also consider the positions of other jurisdictions concerning contingency fee agreements. In *Harrington (Guardian ad Litem of) v. Royal Inland Hospital* (1995), 131 D.L.R. (4th) 15, the British Columbia Court of Appeal reviewed extensively the court's role in its capacity as *parens patriae*, particularly with respect to contingency fee agreements. I also refer to the Alberta Court of Queen's Bench in *Rusk (Next Friend of) v. Medicine Hat (City)* (2001), 15 C.P.C. (5th) 316, wherein the Court's jurisdiction was described at para. 9:

> ... (1) "the inherent jurisdiction of the Supreme Court to control its officers including the amount of solicitor's fees" ...; (2) "the *parens patriae* inherent jurisdiction of the court to protect the welfare of infants"...; or (3) statutory instruments and rules of court which explicitly permit court intervention into infant settlements.

[14] The New Brunswick case of *Mealey v. Godin et al.* (1998), 203 N.B.R. (2d) 271 dealt with a contingency fee of twenty-five (25%) percent on a settlement of $940,000. The Trial Court decision was appealed to the New Brunswick Court of Appeal and that Court at (1999), 179 D.L.R. (4th) 231 said at para. 20:

> The court's analysis focuses on the net benefit to the person under legal disability after payment of legitimate expenses and legal fees. Taxing counsel's account is inescapably part and parcel of the process and the court's jurisdiction to perform this task is deeply rooted in the common law. Indeed, it has been a facet of the superior court's inherent jurisdiction over its officers and its *parens patriae* jurisdiction ever since those strands of judicial power have existed.... The court's inherent and *parens patriae* jurisdiction cannot be eviscerated except by plain and unequivocal statutory language. ...

[15] In Nova Scotia, the late Grant, J. had occasion to tax the accounts of a solicitor who had acted on behalf of the guardian of a person who had been rendered mentally incompetent in an accident in *Noftell et al. v. Fan Estate*

et al. (1995), 140 N.S.R. (2d) 61. Justice Grant considered the contingency fee agreement and said (at paras. 11-12) that solicitors should expect taxation when they act for a person under a disability, even with a contingency fee agreement in place:

> When the clients are of age and competent there should generally be no required court intervention unless triggered by one of the parties. However, when the action is for the benefit of a person under a disability (a minor, or incompetent person) the court must approve the settlement. The court is required to examine the particulars of the claim and the recovery to assure that it is in the best interests of the person under disability that the order be granted.
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> In my opinion the same should hold for the solicitor costs. Unless there are extenuating circumstances, I consider that such a bill should be taxed. An extenuating circumstance would be where the costs of taxation would exceed its protective value.

[16] Goodfellow, J. interpreted a contingency fee agreement in *Harnish v. Perry Rand Ltd. et al.* (1994), 134 N.S.R. (2d) 145, wherein he said:

> As a general principle, contingency fee agreements must be interpreted in favour of the client and against the solicitor. Particularly where ... the client had no independent legal advice before executing the contingency fee agreement.

[17] I also refer to the decision of McKenzie, J. in *Deans et al. v. Armstrong et al.* (1983), 46 B.C.L.R. 273 (B.C.S.C.), wherein he considered the standard to be applied to a contingency fee arrangement. He said at p. 285:

> While the fair and reasonable standard applying to a contingency contract must be viewed from the outlook available at the time of the contract, it seems appropriate to me, since an infant is involved, that other factors should be considered which apply to solicitors' fees in general. The latest pronouncement from the Court of Appeal was made in *Diligenti v. McAlpine* (1978), 9 B.C.L.R. 153, at 156, which cited with approval *Yule v. Saskatoon, supra* [p. 313], in this language:
>
> > In fixing the remuneration of the plaintiff in this case all factors essential to justice and fair play must be taken into account: *Re Solicitor* (1920), 47 O.L.R. 522, affirmed 48 O.L.R. 363 (C.A.). The circumstances to be considered in arriving at the proper amount are the extent and character of the services rendered; the labour, time and trouble involved; the character and importance of the litigation in which the services were rendered; the amount of money or the value of the property to be effected; the professional skill and experience called for; the character and standing

> in his profession of the counsel; the results secured, and to some extent at least the ability of the client to pay: *Murphy v. Corry* (1906), 70 O.W.R. 363.
>
> The solicitor's services cannot be found wanting when exposed to these tests.
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> *Diligenti* did not mention the risk factor but it should not be overlooked. If the solicitor's efforts had totally failed -- and it was an all or nothing case -- he would have had nothing for his time, no hope for recovery of his disbursements, his personal guarantees of the mother would have to be honoured and his borrowing repaid.

[18] Boyd, Co. Ct. J. in *Peters v. Squamish Indian Band, supra*, referred to *Deans* and concluded:

> Thus ... the court set out the guidelines to be followed by the court in determining the reasonableness of a contingency fee agreement in relation to the legal services rendered on behalf of an infant. Recently the Court of Appeal generally adopted much the same test in determining the reasonableness of a contingency fee agreement in *Sandbeck v. Glasner & Schwartz* (1989), 39 B.C.L.R. (2d) 69 (B.C.C.A.), ... except there, Anderson J.A. suggested that the concept of "reasonableness" is to be considered not only at the time the contract was entered into but over the whole term of the fee agreement.

[19] Fairness and reasonableness are the key elements for consideration when examining fees charged in an infant settlement. There are various subjects interwoven in such consideration, not the least of which is the degree of risk undertaken by the lawyer.

[20] I recognize that there is no such thing as an "open and shut case", but the closer the facts of the case undertaken are to being open and shut, the less the contingency involved. The opposite is also true. Obviously, in a case of clear cut liability and causation of damages, where an insurer of a liable defendant responds reasonably to a reasonable demand, fairness should not permit a fee of an unreasonable percentage of the recovery.

[21] I must now consider the fee claimed by the plaintiff's lawyer in relation to the services rendered for the infant. Before doing so, however, I remark that there is no suggestion of maintenance. The litigation in an infant's settlement is, if not entirely necessary, highly advisable. But as was remarked upon by Boyd, Co.Ct.J. in *Peters v. Squamish Indian Band, supra*:

> Clearly, one starts with the proposition that a contingency fee agreement, executed by the guardian ad litem, is not an agreement which is enforceable against the infant. It may well be enforceable against the guardian but not against the infant, since the infant has no capacity to enter into the contract.

[22] Justice O'Connor continued in *McIntyre Estate* as follows: (paras. 82-84):

> ... when assessing a contingency fee arrangement, the courts should start by looking at the usual factors that are considered in addressing the appropriateness of lawyer-client accounts. See Cohen v. Kealey & Blaney (1985), 10 O.A.C. 344 at 346 (C.A.).

(I add that such cases as *Re MacNeil*, 43 N.B.R. (2d) 1 and *Re Yuill Estate*, [1994] N.S.J. No. 575 set forth "usual factors" to be addressed in considering the appropriateness of lawyer-client costs, as does the Nova Scotia Barristers' Society Code of Legal Ethics and Professional Conduct, which I will set forth below.)

> In addition, I see no reason why courts should not also consider compensation to a lawyer for the risk assumed in acting without the guarantee of payment. This is, of course, where the discussion becomes controversial. Some argue that allowing a lawyer to be compensated for the risk assumed increases the concerns about the abuses that historically the law of champerty aimed to prevent. However, I do not think that that needs to be the case. The emphasis here should be on the reasonableness and fairness of the compensation to the lawyer for assuming the risk. Many jurisdictions that have expressly approved contingency fee agreements have set out the criteria for addressing the amount of compensation that will be permitted. Indeed, Ontario has done so in the Class Proceedings Act. In these instances, one element giving rise to compensation is often the acceptance of risk and an assessment of the level of risk involved.
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> That said, I want to sound a note of caution about the potential for unreasonably large contingency fees. It is critical that contingency fee agreements be regulated and that the amount of fees be properly controlled. Courts should be concerned that excessive fee arrangements may encourage the types of abuses that historically underlay the common law prohibition against contingency fee agreements and that they can create the unfortunate public perception that litigation is being conducted more for the benefit of lawyers than for their clients. Fairness to clients must always be a paramount consideration.

[23] The Nova Scotia Barristers' Society Code presents a convenient checklist of factors to be considered in determining fairness and reasonableness of fees. The "Guiding Principles" are set forth as follows:

For the purposes of this Rule, in determining whether a fee is fair and reasonable the following factors should be considered:

(a) the time and effort required and spent;

(b) the difficulty and importance of the matter;

(c) whether special skill or service has been required and provided;

(d) the customary charges of other lawyers of equal standing in the locality in like matters and circumstances;

(e) in civil cases, the amount involved or the value of the subject matter;

(f) in criminal cases, the exposure and risk to the client;

(g) the results obtained;

(h) tariffs or scales authorized by the Society or by local governing bodies;

(i) reasonable office overhead;

(j) such special circumstances as loss of, or adverse effect on other work, urgency and uncertainty of reward; and

(k) any reasonable agreement between the lawyer and the client.

If a fee cannot be justified in the light of all pertinent circumstances, including the factors described in these Guiding Principles, or is so disproportionate to the services rendered as to introduce the element of fraud or dishonesty, the fee will be deemed unfair and unreasonable and the circumstances may subject the lawyer to disciplinary proceedings.

[24] The Code of Ethics addresses the matter of contingent fees as follows:

12.11 It is not improper for a lawyer to enter into an agreement with the client for a contingency fee, provided such fee is fair and reasonable and the lawyer adheres to the rules of court and the regulations and rulings of the Society relating to such an arrangement.

[25] I will address each of these principles as are relevant:

(a) <u>The time and effort required and spent</u>

[26] Notwithstanding the contingent fee agreement, this factor is essential to the Court's consideration to determine the fairness and reasonableness of the fees arising from the agreement in relation to fees which might ordinarily have been charged.

[27] Counsel, by his affidavit now before me, has submitted an account of his services rendered. He has claimed 25.4 hours at $250 per hour for a total of $6,350. He has reduced that amount to twenty-five (25%) percent of $22,000 for total fees of $5,500. The account submitted, however, does not identify who provided the services claimed. I will require that information prior to approval of the account. I ask that counsel correspond directly with me with respect to this matter.

(b) The difficulty and importance of the matter

[28] As I have indicated above, the allegations of fact set forth in the plaintiff's statement of claim seem to indicate that there was little or no difficulty in this matter with respect to liability. Indeed, no defence was filed. There may have been some question concerning the causation of damages, but on the basis of the information supplied to me, that difficulty was easily overcome.

(c) Whether special skill or service has been required and provided

[29] I do not perceive that any special skill or services were provided beyond those ordinarily expected of a competent solicitor.

(d) The customary charges of other lawyers of equal standing in the locality in like matters and circumstances

[30] With respect to this factor, I have drawn upon my experience and knowledge gained from hearing and adjudicating upon matters involving solicitor and client costs. As I have indicated above, I have also drawn upon my general knowledge of fees currently charged by solicitors in Nova Scotia. I have concluded that a reasonable and fair hourly rate for Mr. MacGillivray on a non-contingent matter would be $165 per hour. I know that some of the services rendered in this matter were by Mr. Wayne Bacchus, who is a junior solicitor. I consider that a solicitor of Mr. Bacchus' experience would be entitled in an ordinary taxation of costs to fees in the amount of $125 per hour.

(e) In civil cases, the amount involved or the value of the subject matter

[31] The value of the subject matter in this case is clear - the settlement is for the gross sum of $22,000. Based upon the information adduced before me, I am satisfied that sum represents the value of the subject matter.

(f) In criminal cases, the exposure and risk to the client

[32] This factor is not applicable herein.

(h) Tariffs or scales authorized by the Society or by local governing bodies

[33] This factor is not relevant.

(i) Reasonable office overhead

[34] Counsel has claimed various disbursements, including $100 for "administrative fee (long distance, faxes, postage, courier, photocopies)". This amount may be reasonable, but if it is truly a disbursement then it should be precise. Usually administrative costs should be included in the lawyers' hourly rate. It is not acceptable, in my view, to charge a blanket amount as a disbursement.

(j) Such special circumstances as loss of, or adverse effect on other work, urgency and uncertainty of reward

[35] Only the "uncertainty of reward" is pertinent to my considerations in this matter. Obviously, this factor involves consideration of the contingency aspect of the case. In the circumstances, there was little doubt that the infant plaintiff would eventually recover her damages. It is also clear, however, that the infant plaintiff's parents are not of sufficient means to retain a lawyer on a fixed hourly fee basis with no guarantee of recovery. Therefore, the only question which I must address in this regard is what premium over and above the regular fees is the lawyer entitled to charge for the uncertainty of reward. Various possibilities of addressing this matter present themselves; I may allow the twenty-five (25%) percent charge if I deem it to be reasonable in relation to all the other factors mentioned above; I may add a premium to a reasonable hourly rate; or I may award a lump sum in lieu of either of the above.

(k) Any reasonable agreement between the lawyer and the client

[36] In this regard, I may consider the agreement between the litigation guardian and the lawyer, but it is not binding upon me with respect to the infant.

[37] I recognize that counsel has not addressed many of the factors mentioned above. In fairness to him, I recognize that many of my considerations may well take him by surprise. Therefore, I will allow counsel to make such further submissions to me in writing with respect to the matters I have raised, at his convenience. I also recognize that this particular claim may not economically support the extra work I am requiring of him. Nonetheless, as counsel claims to specialize in tort law and, in particular, in contingency files, the extra work I have required of him will be justified in his overall practice.

[38] I now return to the documents submitted to me for this particular infant's settlement.

[39] Counsel's affidavit in support of the application generally follows the recommended form. I note that he did not advert to the obtaining of independent legal advice by the litigation guardian, but it is clear that obtaining such advice, pursuant to the precedents, is discretionary. While I strongly urge counsel, wherever practical, to have a litigation guardian obtain independent legal advice, I acknowledge that it is rarely done (as I have been informed) and may have the effect of adding an extra cost to be borne by an infant plaintiff. In this particular case, and given the relatively minor injury suffered by the infant plaintiff, such independent legal advice, on the basis of present practice, was unnecessary. I want to add a cautionary note, however. The courts in the Province of Ontario are urging that legislation be passed making independent legal advice in contingent fee agreements mandatory. It may well be that this jurisdiction will have to examine such a possibility as well, either by a rule of the court or by action of the Nova Scotia Barristers' Society.

[40] In the initial submission to me, counsel submitted a draft order to which a Mr. Wally Sutherland had consented. Mr. Sutherland is not a member of the Bar and is not a lawyer. He does not represent the defendants. Rather, Mr. Sutherland is a local claims manager for the liability insurer of the defendants. It is my view that the Court cannot accept and rely upon the consent to an order by anybody other than a barrister as an officer of the court or by a party. Counsel has submitted a letter from Mr. Sutherland of Royal and Sun Alliance Insurance addressed to counsel which advises that he has authority to enter into and make settlement of this claim, and that he is a staff adjuster. I will require that Mr. Sutherland file an affidavit showing that the insurance company had insured the defendants by a motor vehicle policy which afforded it the subrogated right to make the settlement contemplated. With such an affidavit, I would be prepared to accept the order in the same manner as a consent order.

[41] The proposed trustee's affidavit is in acceptable form and as recommended by the precedents, but it raises a difficulty. The bond is to be in the amount of $30, 595.10, that amount being double the funds to be administered in the trust. Mr. Ormrod's affidavit states that he and his wife have a total net worth of approximately $25,000. That total net worth would not be sufficient to guarantee the net amount of the settlement. In addition, that amount is the net equity of both Mr. and Mrs. Ormrod, whereas the bond is

only proposed to be executed by Mr. Ormrod. Accordingly, the bond presented cannot be accepted. I recognize and have been informed in other applications that a commercial bond would be prohibitively expensive. Therefore, the bond should be strengthened by the inclusion of Mrs. Ormrod, plus another individual with sufficient personal net worth to justify acceptance. An affidavit of justification would be required.

[42] Alternatively, and it seems to me this is a reasonable alternative, the plaintiff should approach the Public Trustee who, I have been informed, is prepared to accept the administration of infants' settlements. I understand the Public Trustee will charge one (1%) percent of the capital value of the trust and five (5%) percent of the revenue. Those fees are reasonable, particularly in comparison to fees charged for commercial bonds. I also understand that the Public Trustee will be prepared to address such matters as allowing for necessary encroachment on the principal in certain circumstances.

[43] In conclusion, therefore, I am prepared to accept the proposed infant settlement as it appears to be reasonable. The forms of the documents will have to be amended in accordance with my decision and I am prepared to hear further from Mr. MacGillivray with respect to the matter of fees.

J.